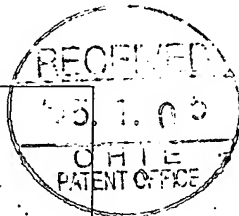


PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY



PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/JP2004/012669

International filing date (day/month/year)
26.08.2004

Priority date (day/month/year)
28.08.2003

International Patent Classification (IPC) or both national classification and IPC
A61K7/48

Applicant
SHOWA DENKO K.K.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/JP2004/012669

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/JP2004/012669

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

4. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-7
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-7
Industrial applicability (IA)	Yes: Claims	1-7
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43*bis*.1 and 70.10)

and / or

2. Non-written disclosures (Rules 43*bis*.1 and 70.9)

see form 210

Re Item V.

1 The following document is referred to in this communication:

D1 : WO 99/62482 A (ITO SHINOBU ; TSUZUKI TOSHI (JP); FURUYA KAZUO (JP); MASATSUJI EIKO (J) 9 December 1999 (1999-12-09)

2 INDEPENDENT CLAIM 1

2.1 The subject-matter of claim 1 is new in the sense of Article 33(2) PCT.

Document D1 discloses cosmetic compositions comprising a lipopeptide (surfactin) and polyoxyethylene sorbitan fatty acid ester (see example 26). Neither the glyceryl nor the sorbit(sorbitol) ester are mentioned in this example. A polyoxyethylene polyhydric alcohol fatty acid partial ester is mentioned in the description in a long list of surfactants. (see page 21, lines 2-3).

2.2 However, the present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT.

The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses cosmetic compositions comprising a lipopeptide (surfactin) and polyoxyethylene fatty acid ester derivatives (see example 26).

The subject-matter of claim 1 therefore differs from this known composition in that the second compound is a polyoxyethylene glyceryl (or sorbit) fatty acid ester.

The problem to be solved by the present invention may therefore be regarded as the insufficient washability of cosmetics comprising a lipopeptide compound and more particularly surfactin. The present application claims that this problem has been solved by using a lipopeptide (surfactin) and polyoxyethylene glyceryl (or sorbit) fatty acid ester.

2.3 The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

The subject-matter of claim 1 consists in the selection of a surfactant - namely polyoxyethylene polyhydric alcohol fatty acid partial ester (see D1, page 21, lines 2-3) from the range of surfactants described in document D1. Such a selection can only be regarded as inventive, if these compounds presents unexpected

effects or properties in relation to the rest of the range. However, no such effects or properties are indicated in the application. Hence, no inventive step is present in the subject-matter of claim 1.

3 INDEPENDENT CLAIM 6

The subject-matter of claim 6 is new in the sense of Article 33(2) PCT.

However, the present application does not meet the criteria of Article 33(1) PCT, since the reasoning of claim 1 applies, *mutatis mutandis*, to the subject-matter of the corresponding independent claim 6 which therefore is also considered not inventive.

4 DEPENDENT CLAIMS 2-5, 7

Dependent claims 2-5, 7 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(2) and (3) PCT).